

1 Rule 63. Disability or disqualification of a judge.

2 (a) Substitute judge; Prior testimony. If the judge to whom an action has been
3 assigned is unable to perform the duties required of the court under these rules, then
4 any other judge of that district or any judge assigned pursuant to Judicial Council rule is
5 authorized to perform those duties. The judge to whom the case is assigned may in the
6 exercise of discretion rehear the evidence or some part of it.

7 (b) Disqualification.

8 (b)(1)(A) A party to any action or the party's attorney may file a motion to disqualify a
9 judge. The motion shall be accompanied by a certificate that the motion is filed in good
10 faith and shall be supported by an affidavit stating facts sufficient to show bias,
11 prejudice or conflict of interest.

12 (b)(1)(B) The motion shall be filed after commencement of the action, but not later
13 than 20 days after the last of the following:

14 (b)(1)(B)(i) assignment of the action or hearing to the judge;

15 (b)(1)(B)(ii) appearance of the party or the party's attorney; or

16 (b)(1)(B)(iii) the date on which the moving party learns or with the exercise of
17 reasonable diligence should have learned of the grounds upon which the motion is
18 based.

19 If the last event occurs fewer than 20 days prior to a hearing, the motion shall be
20 filed as soon as practicable.

21 (b)(1)(C) Signing the motion or affidavit constitutes a certificate under Rule 11 and
22 subjects the party or attorney to the procedures and sanctions of Rule 11. No party may
23 file more than one motion to disqualify in an action.

24 (b)(2) The judge against whom the motion and affidavit are directed shall, without
25 further hearing, enter an order granting the motion or certifying the motion and affidavit
26 to a reviewing judge. The judge shall take no further action in the case until the motion
27 is decided. If the judge grants the motion, the order shall direct the presiding judge of
28 the court or, if the court has no presiding judge, the presiding officer of the Judicial
29 Council to assign another judge to the action or hearing. The presiding judge of the
30 court, any judge of the district, any judge of a court of like jurisdiction, or the presiding
31 officer of the Judicial Council may serve as the reviewing judge.

32 (b)(3)(A) If the reviewing judge finds that the motion and affidavit are timely filed,
33 filed in good faith and legally sufficient, the reviewing judge shall assign another judge
34 to the action or hearing or request the presiding judge or the presiding officer of the
35 Judicial Council to do so.

36 (b)(3)(B) In determining issues of fact or of law, the reviewing judge may consider
37 any part of the record of the action and may request of the judge who is the subject of
38 the motion and affidavit an affidavit responsive to questions posed by the reviewing
39 judge.

40 (b)(3)(C) The reviewing judge may deny a motion not filed in a timely manner.

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